

CAUSE NO. \_\_\_\_\_

**MIGDALIA TREVINO**  
**PLAINTIFF**

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IN THE DISTRICT COURT

V.

\_\_\_\_ JUDICIAL DISTRICT

**FRANCISCO JIMENEZ AND**  
**FRANK TRANS CORP.**  
**DEFENDANTS**

HARRIS COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Migdalia Trevino hereinafter referred to as "Plaintiff", complaining of Francisco Jimenez and Frank Trans Corp., collectively referred to herein as "Defendants" and for cause of action would respectfully show the Court as follows:

1.

**DISCOVERY PLAN**

Plaintiff designates this a Level 3 case, pursuant to Tex. R. Civ. P. 190.4, requiring a discovery control plan tailored to the circumstances of this specific suit.

2.

**PARTIES**

Plaintiff Migdalia Trevino resides in Harris County, Texas and brings this suit for injuries and damages sustained in an auto collision that occurred in Harris County, Texas on June 3, 2016.

Defendant, Francisco Jimenez is an individual residing in Miami-Dade County, Florida at all times material to this action and may be served with process at 14501 SW 88<sup>TH</sup> Street, Miami, Florida 33186-0000, by certified mail, return receipt requested.

Defendant, Frank Trans Corp., is a Florida Corporation may be served with process by serving its registered agent Francisco Jimenez at 14501 SW 88<sup>TH</sup> Street, Miami, Florida 33186-0000, by certified mail, return receipt requested.

3.

**JURISDICTION AND VENUE**

Plaintiff, Migdalia Trevino, solely asserts state law-based claims and all the damages and controversies made the basis of this suit are within the jurisdictional limits of this Court. Further, the acts complained of herein were committed in Harris County, Texas by Defendants. Therefore, Texas courts have both subject matter and in personam jurisdiction over the Defendants for the wrongful conduct performed in this state. Venue is proper in Harris County, Texas pursuant to Tex. Civ. Prac. & Rem. Code Ann. Art. 15.002 for it is the county in which all or substantial part of the events or omissions giving rise to the claim occurred.

4.

**STATEMENT OF FACTS**

On June 3, 2016, Plaintiff Migdalia Trevino was operating her motor vehicle in a safe and prudent manner while traveling Westbound on IH - 10 at the Garth Exit in Houston, Texas. At all times Plaintiff was exercising due care for the safety of herself and other traveling on public roadways .

Defendant, Francisco Jimenez, while in the course and scope of his employment with Frank Trans Corp., was in the custody and control of Frank Trans Corp.'s white Freightliner eighteen wheeler semi-truck. Because of traffic conditions, the vehicle in front of Plaintiff came to a normal stop. Adjusting to the conditions of the roadway and traffic patterns, Plaintiff came to a complete stop and kept an assured distance between her vehicle and others. Suddenly and

without warning, Defendant Jimenez violently struck Plaintiff's vehicle in the rear. Defendant was operating his motor vehicle in a negligent manner, and as a result struck Plaintiff's vehicle. Defendant Jimenez' negligence directly and proximately caused the subject collision and Plaintiff's injuries and damages.

5.

**CAUSES OF ACTION**

Common Law Negligence

The collision and Plaintiff's injuries and damages were directly and proximately caused by Defendant Francisco Jimenez's negligent, careless and reckless disregard of various duties including, but, not limited to the following acts and/or omissions:

1. Defendant failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
2. Defendant took faulty evasive action;
3. Defendant failed to brake in a timely manner; and
4. Defendant failed to control speed.

Defendant Jimenez' negligence was the cause in fact, direct and/or proximate cause of the collision and Plaintiff's injuries and damages.

6.

**RESPONDEAT SUPERIOR**

Plaintiff would show that at the time of the accident Defendant Jimenez was an owner and an employee of Frank Trans Corp., Inc. and was acting in the normal and routine course and scope of his employment and under the control and direction of Defendant Frank Trans Corp.

As such, Plaintiff invokes the doctrine of Respondeat Superior imputing all conduct and negligence of Defendant Jimenez to Defendant Frank Trans Corp.

7.

### **CONTRIBUTORY NEGLIGENCE**

Nothing Plaintiff did or failed to do contributed to the occurrence made the basis of this suit.

8.

### **DAMAGES**

As a direct and proximate result of the occurrence made the basis of this suit, Plaintiff Migdalia Trevino suffered personal injuries and damages. Plaintiff has incurred the following damages for which Plaintiff seeks compensation, within the jurisdictional limits of the Court:

- A. Reasonable and necessary medical expenses which Plaintiff has incurred up until the time of trial of this cause as a result of the injuries suffered by Plaintiff in the accident made the basis of this suit and such charges are reasonable and customary charges for such services in *Harris County*, Texas;
- B. Reasonable and necessary medical expenses which Plaintiff in all reasonable probability will incur in the future as a result of said injuries;
- C. Past physical pain and suffering;
- D. Future physical pain and suffering;
- E. Past mental anguish;
- F. Future mental anguish;
- G. Physical impairment in the past and future;
- H. Mental impairment in the past and future
- I. Physical disfigurement;

- J. Loss of earnings in the past;
- K. Loss of earning capacity in the future;
- L. Loss of household services;
- M. Loss of consortium; and
- N. All other elements of damages that may be shown at the trial of this cause.

9.

#### **REQUEST FOR JURY TRIAL**

Concurrent with the filing of its Original Petition, Plaintiff respectfully demands trial by jury and have tendered the appropriate jury fee required by TEX. R. CIV. P. 216.

10.

#### **REQUESTS FOR DISCLOSURE**

Pursuant to Tex. R. Civ. P. 194, Plaintiff hereby requests that Defendants disclose to Plaintiff, on or before the first business day following the expiration of 50 days from Defendants' receipt of service of this Petition, the information or material described in Tex. R. Civ. P. 194.2 (a)-(l).

11.

#### **CONDITIONS PRECEDENT**

All conditions precedent to Plaintiff claims for relief have been performed or have occurred.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff respectfully prays that Defendants Francisco Jimenez and Frank Trans Corp. be cited to appear and answer herein, and upon final trial of this cause, judgment be entered against Defendants and that Plaintiff recover from Defendants jointly and severally:

- A. Judgment against Defendants for Plaintiff damages as set forth above in an amount greater than ;
- B Post-judgment interest on said judgment at the legal rate from the date of judgment;
- C. Pre-judgment interest on Plaintiff damages as allowed by law;
- D. Costs of Court; and
- E. Such other and further relief, both general and special, at law and in equity, to which Plaintiff may show herself justly entitled.

Respectfully submitted,

**DEMETRIO DUARTE, JR. &  
ASSOCIATES, P.C.**

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